

MAINE STATE LEGISLATURE

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Date: 3/25/22

(Filing No. H-842)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1327, L.D. 1776, "An Act To Allow Pharmacists To Dispense an Emergency Supply of Chronic Maintenance Drugs"

Amend the bill by striking out all of the emergency preamble.

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 24-A MRSA §4317-E is enacted to read:

§4317-E. Coverage for emergency supply of chronic maintenance drugs

1. Definition. As used in this section, unless the context otherwise indicates, "chronic maintenance drug" has the same meaning as in Title 32, section 13786-F, subsection 1.

2. Coverage required. A carrier offering a health plan in this State must make available coverage for an emergency supply of a chronic maintenance drug dispensed pursuant to Title 32, section 13786-F in the same manner as coverage for other drugs under the health plan. A carrier may impose any deductible, copayment, coinsurance or other cost-sharing requirement for the chronic maintenance drug as long as the amount of the deductible, copayment, coinsurance or other cost-sharing requirement is applied in the same manner as if the chronic maintenance drug were dispensed as prescribed by a provider.

3. Application. This section does not apply to a health plan offered for use with a health savings account unless the federal Internal Revenue Service determines that the benefits required by this section are permissible benefits in a high deductible health plan as defined in the federal Internal Revenue Code, Section 223(c)(2).

Sec. 2. 32 MRSA §13786-F is enacted to read:

§13786-F. Dispensing of emergency supplies of chronic maintenance drug

1. Definition. For the purposes of this section, "chronic maintenance drug" means a medication prescribed to treat a chronic, long-term condition and that is taken on a regular, recurring basis.

COMMITTEE AMENDMENT

ROFS

1 **2. Emergency supply.** A pharmacist may dispense an emergency supply of a chronic
2 maintenance drug without a current, valid prescription from a practitioner, subject to the
3 following requirements:

4 A. The pharmacy at which the pharmacist is practicing has a record of a prescription
5 for the chronic maintenance drug in the name of the patient who is requesting the
6 emergency supply, including the amount of the chronic maintenance drug dispensed as
7 provided in the most recent prescription or the standard unit of dispensing for the
8 chronic maintenance drug, and the record of that prescription for the chronic
9 maintenance drug does not include a notation from a practitioner that no emergency
10 supply is permitted;

11 B. The pharmacist attempts but is unable to obtain authorization to refill the
12 prescription described in paragraph A from the practitioner who issued the prescription
13 or another practitioner responsible for the patient's care;

14 C. In the pharmacist's professional judgment, the chronic maintenance drug is essential
15 to sustain the life of the patient or to continue therapy for a chronic condition of the
16 patient and failure to dispense the chronic maintenance drug could reasonably produce
17 undesirable health consequences or cause physical or mental discomfort;

18 D. Except as provided in this subsection, the amount of the chronic maintenance drug
19 dispensed does not exceed a 30-day supply as provided in the prescription or, if the
20 standard unit of dispensing for the chronic maintenance drug exceeds a 30-day supply,
21 the amount of the chronic maintenance drug dispensed does not exceed the smallest
22 standard unit of dispensing;

23 E. With respect to a chronic maintenance drug that is a controlled substance included
24 in Schedule III or IV of 21 United States Code, Section 812 or 21 Code of Federal
25 Regulations, Section 1308, the amount of the chronic maintenance drug dispensed does
26 not exceed a 7-day supply;

27 F. The chronic maintenance drug is not a controlled substance included in Schedule I
28 or II of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Section
29 1308; and

30 G. The pharmacist has not dispensed the chronic maintenance drug in an emergency
31 supply under this subsection to the same patient more than twice in the preceding 12-
32 month period.

33 The pharmacist shall exercise professional judgment in determining the amount of the
34 chronic maintenance drug to be dispensed, up to the maximum amount specified in this
35 subsection. The pharmacist shall notify the practitioner who issued the prescription or
36 another practitioner responsible for the patient's care no later than 72 hours after the chronic
37 maintenance drug is dispensed. The pharmacist shall fulfill all documentation and other
38 requirements established by the board when dispensing an emergency supply of a chronic
39 maintenance drug.

40 **3. Rules.** The board may adopt rules for determining what constitutes a chronic
41 maintenance drug and what reporting procedures are necessary in dispensing an emergency
42 supply of a chronic maintenance drug. Rules adopted by the board pursuant to this
43 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

44 Amend the bill by striking out all of the emergency clause.

1 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
2 number to read consecutively.

3 **SUMMARY**

4 This amendment replaces the bill. The amendment allows a pharmacist to dispense an
5 emergency supply of a chronic maintenance drug to a patient without a prescription if the
6 pharmacist is unable to obtain authorization to refill the prescription from a health care
7 provider and the pharmacist has a record of the prescription in the name of the patient,
8 including the amount of the drug dispensed in the most recent prescription or the standard
9 unit of dispensing the drug, and that record does not indicate that no emergency supply is
10 permitted. The amendment prohibits the dispensing of controlled substances included in
11 Schedules I and II under the federal Controlled Substances Act.

12 The amendment limits the amount dispensed to up to a 30-day supply or, if the standard
13 unit of dispensing exceeds a 30-day supply, to the smallest standard unit of dispensing and
14 further prohibits a pharmacist from dispensing the chronic maintenance drug in an
15 emergency supply to the same patient more than twice in a 12-month period except that, if
16 the drug is included on Schedule III or IV of the federal Controlled Substances Act, the
17 amount dispensed may not exceed a 7-day supply. The amendment requires the pharmacist
18 to make a professional judgment that the prescription is essential to sustain the life of the
19 patient or to continue therapy for a chronic condition of the patient and that failure to
20 dispense the drug could reasonably produce undesirable health consequences or cause
21 physical or mental discomfort.

22 The amendment adds a requirement that the pharmacist notify the practitioner who
23 issued the prescription or another practitioner responsible for the patient's care no later than
24 72 hours after the emergency supply is dispensed.

25 The amendment requires health insurance plans to make available coverage for an
26 emergency supply of a chronic maintenance drug dispensed in this manner. Any cost-
27 sharing requirement applicable to that chronic maintenance drug may be imposed by a
28 health insurer on an emergency supply.

29 The amendment removes the emergency preamble and emergency clause from the bill.

30 **FISCAL NOTE REQUIRED**

31 (See attached)



130th MAINE LEGISLATURE

LD 1776

LR 2273(02)

An Act To Allow Pharmacists To Dispense an Emergency Supply of Chronic Maintenance Drugs

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-842)
Committee: Health Coverage, Insurance and Financial Services
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Additional costs to the Maine Board of Pharmacy within the Office of Professional and Occupational Regulation, Department of Professional and Financial Regulation, and the Bureau of Insurance in the Department of Profession and Financial Regulation to implement the requirements of this legislation can be absorbed within existing budgeted resources.